IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1299 OF 2005

Mr.Balkrishna Rao ..Applicant

Vs.

Amish Gunvant Shah & Anr. ..Respondents

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Mr.S.V.Marwadi Advocate for Applicant
Mr.K.N.Bhatia for Respondent
Mr.Y.S.Shinde, A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.

DATE : JUNE 21, 2005

P.C.

1. Heard the learned advocate for the applicants and the learned A.P.P. for the State.

2. The applicants are seeking quashing of proceedings relating to C.C.No. 490/S/2003 pending before the learned Magistrate 6th Court,Mazgaon, Mumbai. In the said case process has been issued under Section 138 r.w. 141 of Negotiable Instruments Act. If the process issued against the

applicants is set aside, the proceedings in respect of the applicants would come to an end. The learned advocate for the applicants submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside.

3. For the reasons recorded in my order dated 8th June, 2005 in Cri.Application No. 645 of 2005 and order dated 13th June, 2005 in W.P.No. 213 of 2005, in my view, it is clear that the applicants have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the applicants prefer a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicants to prefer the necessary revision before the concerned Sessions Court.

5. On the necessary revision being preferred by the applicants before the concerned Sessions Court,

the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties. Interim stay granted earlier by this Court, is continued for a period of four weeks from today.

6. Criminal Application is disposed of.

[V.K.TAHILRAMANI,J.]